IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

Crl.Rev.Pet.No. 169 of 2007(A)

CRA.413/2005 of ADDL.SESSIONS COURT-II, KOZHIKODE
CC.114/2005 of JUDL.MAGISTRATE OF FIRST CLASS, PAYYOLI

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REVN. PETITIONERS: APPELLANTS/ACCUSED

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1. RADHA, W/O.KUNHIKRISHNAN,
   CHEELIPARAMBIL, PALERI AMSOM DESOM,
   QUILANDY TALUK.

2. KUNHIKRISHNAN, S/O.KUNHIRAMAN NAIR,
   CHEELIPARAMBIL, PALERI AMSOM DESOM,
   QUILANDY TALUK.

3. RAKRISH, S/O.KUNHIKRISHNAN,
   PALERI AMSOM DESOM, QUILANDY TALUK.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: RESPONDENT/COMPLAINANT & STATE

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1. KALLIANI, W/O.KUMARAN,
   VAZHAYIL MEETHAL HOUSE, PALERI AMSOM DESOM,
   QUILANDY TALUK.

2. STATE OF KERALA REP. BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 12/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

CRL.R.P.No.169 of 2007

Dated this the 12th day of April, 2007

O R D E R

The revision petitioner stands convicted for the offence under Sections 323 and 447 IPC and sentenced to pay a fine of Rs.1,000/- and in default, to undergo simple imprisonment for two months for the offence under Section 323 IPC and to pay a fine of Rs.500/- and in default, to undergo simple imprisonment for one month for the offence under Section 447 IPC. It is also directed that the fine amount of Rs.3,000/- if realised should be paid to PW1 as compensation.

2. It is the contention of the revision petitioner that there is no independent evidence to support the prosecution case and that the evidence adduced in the matter is not convincing enough to enter upon a conviction. It is also pointed out that there is also two months delay in filing the private complaint.

3. PW1 is the injured and PW2 is the daughter who was an occurrence witness. PW3 the independent witness also does support the prosecution version. The prosecution case is that on 20.6.2002 at about 10 p.m., the revision petitioner/ accused

trespassed into the courtyard of the first respondent and the second revision petitioner/accused caught hold of on her hair and dragged her into the courtyard and kicked on the naval and the third accused beat her with a stick. PW1 sustained injuries and got admitted in the hospital. Injuries sustained and the fact that PW1 was inpatient is proved though the evidence of PW1 and Exts. P3 and P4 wound certificates. I find that no discrepancies or contradictions have been brought out in the evidence of PWs' 1 and 2. The above evidence is convincing. I find that there is no error in the orders of the courts below in relying on their evidence.

4. The delay in filing the private complaint has been explained that they have complained before the police and the police did not take any action. Pre-existing animosity in between the parties has been proved vide Exts. D1 to D3 proceedings in an earlier criminal case in which the complainant and her husband were charge sheeted and convicted. I find that the above is not as such sufficient to discard the prosecution

evidence herein. In the circumstances, I find no reason to interfere in the findings of the court below in exercise of the revisional jurisdiction of this court. In the circumstances, the conviction and sentence is confirmed.

5. Considering the plea of the counsel, the revision petitioner is granted six months' time from today onwards to remit the fine amount. Non bailable warrant, pending, if any shall be kept in abeyance till then.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl